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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 07, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

No. 1:18-cr-02042-SMJ-1

Plaintiff,

**ORDER DENYING MOTION FOR
COMPASSIONATE RELEASE**

v.

DANIEL RODRIGUEZ-SANTOS,

Defendant.

Before the Court, without oral argument, is Defendant Daniel Rodriguez-Santos's Pro Se Motion for Compassionate Release Under 18 U.S.C. § 3582(c)(1)(A)(i), as Amended by § 603(b)(1) of the First Step Act of 2018, ECF No. 169. The Government opposes compassionate release. ECF No. 173. The Court has reviewed the record in this matter, is fully informed, and denies the motion.

BACKGROUND

A jury found Defendant guilty of Possession with Intent to Distribute Methamphetamine and Possession of a Firearm in Furtherance of a Drug Trafficking Crime. ECF No. 121. In August 2019, this Court sentenced Defendant to a term of incarceration of 144 months. ECF No. 137. Defendant is currently housed in Oakdale II FCI in Oakdale, Louisiana with a projected release date of

1 July 1, 2028. *BOP Inmate Locator*, BOP (last accessed June 6, 2021),
2 <https://www.bop.gov/inmateloc/>. Defendant now seeks compassionate release
3 because of the risks created by the coronavirus (COVID-19) pandemic. ECF No.
4 169. Defendant states he suffers from diabetes, asthma, high-blood pressure, high
5 cholesterol, rheumatoid arthritis, and glaucoma. ECF No. 169. Defendant
6 contracted COVID-19 in January 2021, and experienced symptoms such as a fever,
7 cough, shortness of breath, and diarrhea. ECF No. 173; *see also* ECF No. 177.
8 Although his medical records state he feels better, Defendant tells the Court that he
9 experiences continued diarrhea, chest wheezing, and limited ability to take deep
10 breaths. *Compare* ECF No. 177 *with* ECF No. 169-4 at 1–2 (translated from
11 Spanish). He fears that if he contracted the disease again, he “would not be able to
12 withstand it.” ECF No. 169-4 at 2.

13 At FCI Oakdale II, over 290 inmates have tested positive for COVID-19, and
14 at least two have died. But BOP currently lists two active inmate cases at Oakdale
15 II. COVID-19 Cases, BOP (last accessed June 6, 2021),
16 <https://www.bop.gov/coronavirus/>. FCI Oakdale I, connected to Oakdale II, has had
17 over 220 inmates test positive and seven deaths. *Id.*

18 **LEGAL STANDARD**

19 The Court’s authority to amend a criminal defendant’s sentence of
20 incarceration, once it has been imposed, is narrow. *See* 18 U.S.C. § 3582(c) (“The

1 court may not modify a term of imprisonment once it has been imposed except that
2 . . .”). The statutory mechanism under which Defendant seeks early release permits
3 a sentence reduction if the Court finds “extraordinary and compelling reasons
4 warrant” such relief. *Id.* § 3582(c)(1)(A)(i). The Court must also consider the
5 sentencing factors provided in 18 U.S.C § 3553(a). 18 U.S.C. § 3582(c)(1)(A). But
6 that provision is only available “upon motion of the Director of the Bureau of
7 Prisons, or upon motion of the defendant after the defendant has fully exhausted all
8 administrative rights to appeal a failure of the Bureau of Prisons to bring a motion
9 on the defendant’s behalf or the lapse of 30 days from the receipt of such a request
10 by the warden of the defendant’s facility, whichever is earlier.” *Id.* § 3582(c)(1)(A).

11 DISCUSSION

12 A. Defendant exhausted his administrative remedies

13 Having reviewed the materials Defendant submitted with his motion for early
14 release, the Court concludes he has satisfied the requirement of administrative
15 exhaustion set out in 18 U.S.C. § 3582(c)(1)(A)(i). Specifically, it appears
16 Defendant sought relief from the warden of his facility on September 8, 2020. ECF
17 No. 169-2 at 6. More than thirty days have elapsed since the receipt of Defendant’s
18 request to the warden. As a result, the Court is satisfied Defendant has met the
19 administrative exhaustion requirement. *See* 18 U.S.C. § 3582(c)(1)(A)(i). The
20

1 Government does not dispute that Defendant has exhausted his administrative
2 remedies. ECF No. 173 at 4.

3 **B. Defendant has not demonstrated extraordinary and compelling reasons
4 warranting release**

5 Turning to the merits of Defendant's request, the Court finds he has failed to
6 establish "extraordinary and compelling reasons" warranting a reduction in his
7 sentence to time served. *See* 18 U.S.C. § 3582(c)(1)(A)(i). Further, the crime of
8 conviction is a serious offense, which included the possession of a firearm. Despite
9 Defendant's expressed remorse, the Court finds that the sentencing factors do not
10 weigh in favor of his early release.

11 In support of his motion for compassionate release, Defendant asserts that he
12 suffers from diabetes, asthma, high-blood pressure, high cholesterol, rheumatoid
13 arthritis, and glaucoma. ECF No. 169. The CDC reports that people with diabetes,
14 high blood pressure, and asthma face an increased risk of suffering from severe
15 illness if they contract COVID-19. *People with Certain Medical Conditions*, CDC,
16 <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (last accessed June 7, 2021).

18 FCI Oakdale, where the Defendant is housed, reportedly has two active
19 inmate cases of COVID-19 and seven active staff cases. *COVID-19 Cases*, BOP,
20 <https://www.bop.gov/coronavirus> (last accessed June 6, 2021). Despite these

1 comparatively low positive numbers, COVID-19 has a foothold in the BOP
2 nationwide. To be sure, Oakdale has not remained immune—Defendant himself
3 contracted the virus. *Id.* Defendant is rightly concerned about the spread of COVID
4 in prisons and jails. *See* ECF No. 169.

5 But despite BOP’s struggles to control the spread of COVID-19 in its
6 facilities and Defendant’s medical conditions, Defendant articulates no
7 “extraordinary” diagnoses that warrant early release. When Defendant contracted
8 the disease, he recovered. *See* ECF No. 177. And Defendant is unlikely to contract
9 COVID-19 again. “Cases or reinfection with COVID-19 have been reported, but
10 remain rare.” *Reinfection with COVID-19*, CDC,
11 <https://www.cdc.gov/coronavirus/2019-ncov/your-health/reinfection.html> (last
12 visited June 6, 2021). And BOP has administered over 190,000 vaccine doses.
13 *COVID-19 Vaccine Implementation*, BOP,
14 <https://www.bop.gov/coronavirus/index.jsp>. Between the Oakdale facilities, 1,241
15 inmates, about seventy-three percent, have been fully vaccinated. *Id.* Defendant’s
16 situation falls short of the “extraordinary and compelling” standard required under
17 18 U.S.C. § 3582(c).

18 Defendant’s apparent remorse and limited criminal history do not erase the
19 serious nature of his underlying crime. *See* ECF No. 169 at 6–7 (Defendant states
20 he “is repentant of having failed to the great opportunity of being in the United

1 States due to his poor judgment.”). Defendant has served about 35 months of his
2 144-month sentence. *See* ECF No. 22. In his presentence investigation report,
3 Defendant had fallen into criminal history category I. ECF No. 133 at 10. Defendant
4 possessed a firearm and dealt in high quantities of methamphetamine. ECF No. 133
5 at 5–6.

6 Finally, the Court must consider the Section 3553(a) factors. Along with the
7 kinds of sentences available and the sentencing range established by the guidelines,
8 Section 3553(a) also instructs the Court to consider:

- 9 (2) the need for the sentence imposed--
10 (A) to reflect the seriousness of the offense, to promote respect
11 for the law, and to provide just punishment for the offense;
12 (B) to afford adequate deterrence to criminal conduct;
13 (C) to protect the public from further crimes of the defendant;
14 (D) to provide the defendant with needed educational or
15 vocational training, medical care, or other correctional treatment
16 in the most effective manner.

17 18 U.S.C. § 3553(a)(2).

18 Despite the increased risk posed by the pandemic, the Court concludes that
19 Defendant’s sentence continues to reflect the concerning nature and circumstances
20 of the offense and avoids unwarranted sentencing disparities. Defendant states he is
making strides toward rehabilitation, including participating in educational and
religious activities, but Defendant’s punishment remains just and will protect the
public.

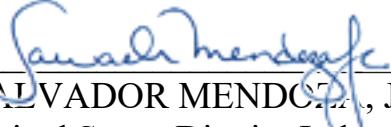
1 Ultimately, the pandemic represents a serious, but not extraordinary, risk to
2 Defendant, and the sentencing criteria do not favor a reduction in his sentence.
3 Defendant has already contracted COVID-19, and the chances that he will get it
4 again are slim.

5 Accordingly, **IT IS HEREBY ORDERED:**

6 Defendant Daniel Rodriguez-Santos's Pro Se Motion for
7 Compassionate Release Under 18 U.S.C. § 3582(c)(1)(A)(i), as
8 Amended by § 603(b)(1) of the First Step Act of 2018, **ECF No. 169**,
9 is **DENIED**.

10 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
11 provide copies to all counsel, the U.S. Probation Office, and the Bureau of Prisons.

12 **DATED** this 7th day of June 2021.

13 
14 SALVADOR MENDEZ, JR.
15 United States District Judge